

REMARKS

In the Office Action, the Examiner restricted claims 1-59 into the following groups: (Group I) claims 1-14, 51, 52; 15-22, 53; 41-46; and 56-57 drawn to a rack mountable device for a rack mount computing system; a user interaction device mountable in a rack computer assembly; a method for forming a rack mountable keyboard and display assembly; and a user interaction assembly mountable in a rack system, respectively; (Group II) claims 23-32, 54, 55; and 33-40, drawn to a rack mount computing system and a method for rack mounting a keyboard and a display in a rack mount computer system, respectively; and (Group III) claims 47-50; and 58-59, drawn to a method of operating a rack mounted keyboard and display assembly; and a rack computer system, respectively.

After careful review of the Examiner's restriction requirement, the Applicants elect to prosecute the claims 1-22, 41-46, 51-53, and 56-57 corresponding to Group I *with traverse*. More specifically, the Applicants object to the Examiner's rejection on the ground of a lack of "serious burden" on the Examiner. As set forth in the Manual of Patent Examining Procedure, the criteria for restriction between patentably distinct inventions includes: (1) the inventions must be independent or distinct, and (2) there must be a serious burden on the Examiner. *See M.P.E.P. § 803.* In this case, the Applicants stress that the prosecution history evidences no burden, much less a "serious burden," on the Examiner.

Specifically, in the parent application number 09/873,947, filed June 4, 2001, the Examiner repeatedly examined the claims, formulated rejections, and considered the Applicants' arguments in four separate Office Actions. During prosecution of the parent application, the Applicants added new claims 51-59, added a period to claim 33, added the word "and" to claim 23, and added the phrase "rack mountable" to claim 41. These amendments and new claims clearly did not provide any burden, much less a "serious burden," on the Examiner.

In a Preliminary Amendment filed with the present continuation application, the Applicants placed the claims in the same form as in the parent application. Again, the Examiner proceeded to prosecute the claims as indicated by the previous Office Action

mailed February 25, 2004. However, the previous Office Action indicated that the Patent Office lost several Exhibits and Declarations pursuant to 37 C.F.R. §§ 1.131 and 1.132 and, thus, the Examiner did not address this evidence. Accordingly, the Applicants subsequently resubmitted these documents in response to the previous Office Action. The Applicants stress that this evidence does not change the burden on the Examiner, because the Examiner must consider this evidence regardless of the number of claims being examined on the merits.

Clearly, examination of these claims was *not* a “*serious burden*” on the Examiner, because the Examiner was able to perform prior art searches and formulate rejections of the pending claims on numerous occasions during prosecution of both the parent and continuation applications. Therefore, the Applicants believe that the Examiner’s restriction requirement is improper and cannot stand. Again, the Applicants stress that:

If the search and examination of an entire application can be made *without serious burden*, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803. For these reasons, the Applicants respectfully request that the Examiner withdraw the restriction requirement and examine all pending claims.

Conclusion

If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Date: August 12, 2004

Tait R. Swanson
Registration No. 48,226
(281) 970-4545

CORRESPONDENCE ADDRESS:
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
Legal Department, M/S 35
P.O. Box 272400
Fort Collins, CO 80527-2400